

September 6, 2000

Mr. Chairman and Members of the Committee,

My name is Frank D. Rapp. I am an enrolled member of the Oglala Lakota Nation, and am from the Pine Ridge Reservation. I am the Vice President of the Dakota Area Consortium of Treaty Schools, a collective organization of Grant Schools throughout North Dakota and South Dakota. I have been working on the development and advocacy of this concept and bill for over five years. Why I have worked so long and hard is simple. The Federal government has not and will not appropriate the amount of funds necessary to renovate, repair, and replace our schools. They are now so bad that they are "accidents waiting to happen."

I live in the poorest county in the United States. Our condition of poverty will remain for future generations unless our children receive the educational opportunities available to the rest of the nation.

I support The Indian School Construction Act, S. 2580. This bill enacted into law will provide the financial resources to give our Indian children the education they have a right to (and the United States government has the responsibility to provide) so that our children can contribute to our society.

There exists a unique political and legal relationship between the government of the United States and governments of Indian Tribes. Indian Tribes have a legal relationship with the United States government which is set forth in the Constitution of the United States, treaties, federal statutes, and judicial decisions. The Constitution of the United States gives Congress plenary powers over Indian affairs; and through treaties, statutes, executive orders, course of dealing and custom, the United States has undertaken a trust obligation to protect Indian Tribes and tribal resources. Our most valuable resource is our children.

The trust responsibility includes the duty to protect, preserve and enhance tribal assets and resources, and to assist Indian Tribes in improving socio-economic development and strengthening powers of self government. A primary emphasis of this trust responsibility is to provide quality education. Indian self-determination can only be conducted in a proper manner by an educated membership. The entire realm is the proper development of our children through a well organized educational system which is sufficiently funded. In order to increase the commerce, welfare, and prosperity of Indian people across the United States, and to improve their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and develop their intellectual and mental capacities. The first step, of course, is to make sure that their schools are not only safe but also conducive to learning.

We are talking about a "federal" school system. Politicians are debating what they are going to do to help public school systems, and now there are discussions of vouchers to private schools. How can this be when the worst school system in the country is run by the federal government

through the Bureau of Indian Affairs? We suggest you fix your own educational system and make it a model for public schools. Lead by example.

There is approximately 16,600,000 square feet of space in BIA funded schools nationwide. As of March 1998 there is a backlog of improvement, repair, renovations, and replacement of \$754 million. Industry standards indicate that deferred maintenance grows by \$22.6 million per year due to inflation, and approximately \$33.9 million per year due to natural aging and deterioration, for annual total of \$56.5 million per year in growing needs.

This bill is about time not money. We all know that BIA-funded schools are a federal responsibility and an obligation, and now they have become a federal liability. Congress must now take their responsibility seriously. No longer can the health and lives of our children be held in jeopardy because you fail to adequately fund Indian education. Now is the time to pass this bill. Now is the time to face this crisis and manage it, not ignore it. In a time of budget surplus, we need to be investing in ourselves by rebuilding an infrastructure which has suffered since the onset. Now is the time to Protect Our Children.

The infrastructure of the BIA funded schools is deplorable. And not only are the schools not conducive to learning, they are unsafe for our children and the staff. At times past, Congress has funded school renovation, repair, and replacement in a menial way. This has caused a backlog of repairs that is close to \$1 billion. I have worked over 18 years in the BIA educational system and have watched the repeated piecemeal repairs which were quick fixes, that took care of only the symptoms of the buildings problems. I have seen very expensive, yet worthless, portable classrooms built and fall apart in a few years. Good money has been thrown away after bad.

Too many times has the operations and maintenance funding for our schools been constrained. The Administration has not requested the real need, and Congress has not appropriated sufficient money to keep these buildings operational. The old saying "an ounce of prevention is worth a pound of cure" goes well in this situation. This has compounded the structural problems and safety problems dramatically. Now is the time to fund and fix our schools.

It is obvious (based upon history) that Congress is not going to appropriate the money necessary to take care of this horrible problem. We have been asking and telling you for years that you need to do something to help us. I hope this is the time and the place for the right decision to be made. Year after year we have been told that Congress will appropriate the necessary funds, and that has not happen. Now is the time to seriously look at our proposal. The leveraging of limited funds which provides more funds for this critical need is a moderate, yet creative, solution. One that we personally use when we buy a house, and one which public schools, municipalities, and states have been using for years.

The irony of this underfunding of Tribal schools is that you as responsible senators are sitting on a "time bomb." As the conditions get worse children are going to get hurt, our even possibly die, because of the condition of their school. We will have to live with the grief and sorrow and you will have another statistic. Who can you look to, to blame? The answer is apparent. It is now in your hands. Are going to wait until a child dies in a federally funded/governed school before we

decide if their education is as important as the rest of the children in these United States? You must decide whether this bill can help us improve the conditions of our school. We all know the answer is yes. Are you willing to make a bold move and favor this bill?

We in the Indian country are doing all we can with the limited and constrained budgets you have appropriated. Now is the time for you to support, advocate, and pass this bill. For years now we have been told to wait because “next year Congress will appropriate more money.” Every year we find there is not enough. Every year we are told to wait, and again there is not enough. This cannot go on any longer. You have the opportunity to change this vicious cycle. Passing this bill will allow us to leverage limited funding on an annual basis to resolve this crisis. It will allow the Bureau of Indian Affairs to work with our tribes in developing a long term, strategically planned replacement program for our schools over a 40 year cycle.

In the bill, it is made very clear that under no circumstances will the issuing Tribe or the federal government have an ongoing obligation to repay the bonds, either the principal or the interest, (other than the federal government providing the tax credits on an annual basis), and that the sovereign immunity offered to the Tribes, through treaties and the like shall remain in place. Furthermore, neither the education facilities nor the land that facilities are on shall be mortgaged or used as collateral for the bonds. In the event of default, the bondholders shall not have any recourse to the tribes nor its assets.

This is a bill for the purpose of funding a specific dollar amount of projects which are part of the tribal school project backlog. This program provides tax credits to pay interest and a cash escrow account to pay principal on bonds, which are issued for the purpose of funding building renovations and new school construction.

I can go over the mechanics and specific details of this bill, but it would be redundant to do so with the testimony of my colleagues. What is important to remember is that we are not just talking about spending money. We are talking about the future of our Indian children and their Tribes. We are not only talking about a moral obligation, but a legal obligation. We realize that too often we are insignificant and not important within the full realm of the federal government. We realize that the halls of Congress are pounded by people asking for what they feel is important. This is very important to us.

Generations ago our leaders signed treaties with United States government. These were peace treaties and offerings to which we are all bound today. We gave up land, we gave up rights, and we gave our lives for the conditions of those treaties. In the Fort Laramie Treaty of 1868, the federal government guaranteed provisions for the education of our children and the education of their posterity. The passage of this bill by Congress is but one step to fulfill the federal government’s promise and responsibility to our tribes.

Our children come to school with this huge spirit to learn. The federal government kills that spirit by putting them in overcrowded buildings that have torn up tile, broken windows, and a lack of heat and cooling systems. Children have to put on coats and jackets four to eight times a day to go to different classes, to go to lunch, and to go to the nurse (if we are lucky to have one.) Many

of our children are from rural areas with no indoor plumbing. The school not only educates the children, but assists in personal hygiene and health. Showers are provided. The education of these children is not only reading, writing, and math, but how to take care of yourself physically and emotionally.

We expect our children to appreciate and be thankful for their education. What should they appreciate? A building that passes no fire codes, health inspections, or safety inspections? A building that has only one window and door on one side? A desk that is surrounded by bowls and buckets to collect water dripping from the ceiling? A playground they share with snakes, rodents, hazards, and occasionally a prairie fire? How do they learn respect and to appreciate anything when they are expected to learn in an environment such as this?

How are the children supposed to take pride in their education when they do not know anything more than the school being an old run down building. Water faucets and toilets frequently do not work. Pieces of the buildings are falling off. School is dark and dreary.

We have educators, parents, and society making disabilities. Poor children are no different than affluent children. The poor just do not have the opportunity to look beyond where they live. When you live like this, as a child, you think that this is how everyone else lives. They do not miss going to a park because they do not realize they should have one. They do not miss going to a library because they do not know what one is until they go to advanced school. What is a computer lab? What is a science lab?

What about the little five-year-old girl at the Ojibwa Indian school in Belcourt ND that suffered from frost bite by leaving her classroom and having to walk outside to the lunch room? What about all the children and the staff that are constantly breaking bones and suffering from bruising because they are falling on slick ice? What about all the portable classrooms that are placed so close together that if one classroom burns they all will go up in flames trapping people? There is no way to get a fire truck to those situated in the back, and of course there is no central fire control system. What about all the children that are exposed to hazardous conditions on a daily basis?

They are living in an area of poverty because you cannot see them. They do not go to your house to play. It seems they do not exist. They are not your problem because you do not see them. If you had a child, grandchild, or niece or nephew at Ojibwa Indian School, Marty, or Loneman you would do what you could to improve the school. But then again, because you have a choice, you would not have them in that school. Our children have no choice. Your children say "That is My School!" and our children say "I go to school over there."

This is not a problem on a piece of paper. The problem is on your back door; but you have chosen to not open the door in the past. Right now is the time for you to open that door and reach out to the children and show that you care. Show them that even though you cannot see them, you know they are there. Let them know that there is a big hand reaching down. It is not going to hurt them, but provide educational security to them by passing this bill into law.

The United States government has succeeded in its initial role. You have kept us dependent. You continue keeping our children from moving forward in personal, social, emotional, educational, and intellectual growth. And you have done it very well! It is time to offer our children the same opportunities as other children in the United States. They are no different in how they see, think, feel, hurt, laugh, and cry.

The federal government is “Of the People; By the People and For the People.” As Senators, you are the United States government. Do not repeat history. Support this bill.

At this time before you, once again, is a man pleading for you to understand that we need your help. Just because it is the way it is, I stand before you again saying it is the responsibility of the federal government to properly fund our schools. You are the only funding source we have and we need more. The Indian School Construction Act is the answer. There is no question about it.

Frank D. Rapp

Vice President, Dakota Area Consortium of Treaty Schools.